

**Nursing and Midwifery Council  
Fitness to Practise Committee**

**Substantive Order Review Hearing  
Tuesday 23 April 2024**

Virtual Hearing

**Name of Registrant:** **Mercy Ngozi Okeke**

**NMC PIN** 9816999E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing – September 2001  
Registered Midwife (March 2005)

**Relevant Location:** London

**Type of case:** Misconduct/Lack of competence

**Panel members:** Jonathan Storey (Chair, Lay member)  
Leanne Evans (Registrant member)  
Sarah Fleming (Registrant member)

**Legal Assessor:** Juliet Gibbon

**Hearings Coordinator:** Rebecka Selva

**Nursing and Midwifery Council:** Represented by Jayesh Jotangia, Case presenter

**Miss Okeke:** Not present and not represented

**Order being reviewed:** Conditions of practice order (12 months)

**Fitness to practise:** Impaired

**Outcome:** **Suspension order (3 months) to come into effect on 19 May 2024 in accordance with Article 30 (1)**

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Miss Okeke was not in attendance and that the Notice of Hearing had been sent to Miss Okeke's registered address by recorded delivery post on 25 March 2024.

The panel had regard to a Royal Mail 'Track and trace' printout which indicated that delivery had been effected to Miss Okeke's registered address on 27 March 2024. It was signed for against the printed name of 'Okeke'.

Mr Jotangia, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Miss Okeke's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Miss Okeke has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

## **Decision and reasons on proceeding in the absence of Miss Okeke**

The panel next considered whether it should proceed in the absence of Miss Okeke. The panel had regard to Rule 21 and heard the submissions of Mr Jotangia who invited the panel to continue in the absence of Miss Okeke.

Mr Jotangia submitted that there had been no engagement by Miss Okeke with the NMC since August 2023. He submitted there had been no request for an adjournment and there

was no reason to believe that Miss Okeke would attend on some future occasion. He reminded the panel that the current substantive conditions of practice order is due to expire on 19 May 2024.

The panel accepted the advice of the legal assessor.

The panel decided to proceed in the absence of Miss Okeke. In reaching this decision, the panel considered the submissions of Mr Jotangia and the advice of the legal assessor. It has had particular regard to relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Miss Okeke;
- Miss Okeke has not engaged with the NMC since August 2023 and has not responded to any of the letters sent to her about this hearing;
- Miss Okeke did not attend the review hearing on 14 March 2024 and was not represented;
- Miss Okeke has not provided the NMC with details of how she may be contacted other than her registered address;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case;
- The current order is due to expire on 19 May 2024.

In these circumstances, the panel decided that it is fair to proceed in the absence of Miss Okeke.

### **Decision and reasons on review of the substantive order**

The panel decided to replace the current conditions of practice order with a suspension order.

This order will come into effect at the end of 19 May 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the eighth review of a substantive order, which was originally imposed as a striking-off order on Miss Okeke's registration on 13 January 2012 by a panel of the Conduct and Competence Committee. This was appealed successfully to the High Court on 27 February 2013 and the matter of sanction was remitted to a new panel.

On 23 July 2013 the sanction was reviewed by a Conduct and Competence Committee, and a suspension order was imposed for a period of nine months. The first review of the order was held on 18 June 2014 and the suspension order was extended for a further 12 months. The second review by the Conduct and Competence Committee was held on 18 June 2015 and the order was replaced with a conditions of practice order for a period of 24 months. The third review was held on 17 May 2017 and the conditions of practice order was extended for a further 21 months. The fourth review of the order held on 14 March 2019, was carried out by the Fitness to Practise Committee where the panel imposed a varied conditions of practice order for a period of 18 months. The fifth review was held on 19 August 2020 where the reviewing panel varied and continued the conditions of practice order for a further period of 18 months. The sixth review was held on 8 February 2022 and the reviewing panel extended the current conditions of practice order for a period of 12 months. The seventh review was held on 20 February 2023 where the reviewing panel varied and continued the conditions of practice order for a further 12 months. At a review hearing on 14 March 2024 the panel did not have sufficient time to comprehensively review the order. It was satisfied however that Miss Okeke's fitness to practice remained impaired and it further extended the conditions of practice order for a period of two months.

The current order is due to expire at the end of 19 May 2024.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved which resulted in the imposition of the substantive order were as follows:

*"That you, a registered midwife, having completed a period of supported practice while working at Whipps Cross Hospital between 18 April 2005 and 10 December 2005:*

1. *While employed as a band 6 midwife by Queen Mary's Sidcup NHS Trust at Queen Mary's Hospital between 3 January 2006 and 24 February 2006, failed to demonstrate the standards of knowledge, skill and judgement required to practise without supervision as a band 6 midwife in that you:*

(a) *On 12 January 2006, while working with midwife Ms 1:*

(i) *were unable to identify the artery, the vein, and/or the anatomy of the placenta, cord and membranes;*

(ii) *injected a woman close to the sciatic nerve rather than in the upper outer quadrant of the buttock;*

(b) *On 14 January 2006, while working with midwife Ms 1, were prepared to carry out a digital vaginal examination on a woman of 29 weeks' gestation;*

(c) *On 17 January 2006, while working with midwife Ms 2, when carrying out an admission:*

(i) *failed to take a history;*

(ii) *failed to perform basic maternal observations without prompting;*

(d) *On 17 January 2006, while working with midwife Ms 2, went to give an intramuscular injection in the wrong position;*

(e) *On 28 January 2006, while working with midwife Ms 3, failed to perform urinary catheterisation in an aseptic manner;*

(f) *While working with midwife Ms 4, attempted to place a baby on the mother's abdomen without unravelling the cord from around the baby's neck;*

*(g) On various dates, while working with midwives Ms 5, Ms 2, Ms 4, Ms 1, Ms 6, Ms 7, and/or Ms 3, failed to demonstrate satisfactory communication with:*

*(i) Women*

*(ii) Women's family members;*

*(iii) Other members of staff.*

*(h) On various dates, while working with midwives Ms 5 and/or Ms 6, failed to carry out abdominal palpation correctly;*

*(i) On various dates, while working with midwives Ms 5, Ms 2, and/or Ms 6, failed to carry out vaginal examinations correctly;*

*(j) On various dates, while working with midwives Ms 5, Ms 2, Ms 4 and/or Ms 6, failed to interpret CTGs accurately;*

*(k) On various dates, while working with midwives Ms 2 and/or Ms 6, failed to keep adequate records, in that you:*

*(i) Failed to keep clear records of care given;*

*(ii) Failed to record contractions without prompting;*

*(iii) Used incorrect terminology;*

*(l) On various dates, while working with midwives Ms 6 and/or Ms 7, failed to carry out fetal heart rate monitoring properly;*

*(m) On various dates while working with midwives Ms 2 and/or Ms 6, were unable to use an IVAC pump correctly.*

2. *While undertaking a period of supervised practise with Barking Havering and Redbridge NHS Trust at King George Hospital between 9 October 2006 and 1 December 2006, failed to demonstrate the standards of knowledge, skill and judgement required to practise without supervision as a midwife in that:*

(a) *You failed to achieve independent practitioner level in the following skills assessments:*

(i) *Injection technique;*

(ii) *Vaginal examination;*

(b) *You failed to achieve independent practitioner level in the following proficiency assessments:*

(i) *Intrapartum record keeping;*

(ii) *Intrapartum care;*

(iii) *Safe drug administration;*

(iv) *Effective communication and team working.*

*And that you, a registered nurse, while working as an agency nurse at Newham University Hospitals NHS Trust:*

3. *On 1 July 2006, while working on the Coronary Care Unit, failed to sign Patient A's medication chart to show that you had given medication to Patient A;*

4. *On 3 July 2006, while working on the Coronary Care Unit, failed to sign Patient A's medication chart to show that you had administered Metformin to her;*

5. On 5 July 2006, while working in the Accident and Emergency Department, allowed Patient B to remove spinal immobilisation equipment in order to go to the lavatory:

(a) Despite having been told by your colleague Ms 8 that the patient would have to use a bedpan as she had to remain immobile;

(b) Without seeking any other advice from medical and/or nursing colleagues;

(c) Without carrying out a clinical assessment;

And in light of the above, your fitness to practise is impaired by reason of your lack of competence in respect of 1 and/or 2 above, and/or by reason of your misconduct in respect of 3, 4 and/or 5 above.

Your fitness to practise was found to be impaired in relation to charges 1, 2 and 5.”

The seventh reviewing panel determined the following with regard to impairment:

*‘The panel considered whether your fitness to practise remains impaired.*

*The panel considered the charges found proved and the serious nature of the events which led to the imposition of the order. It took into account the previous review panel’s determination that you had no real insight as to the risks you pose to the public and how to appropriately address this to prevent the failings from reoccurring. Today’s panel found that there was no new information before it that suggests your insight has improved, and you are therefore likely to repeat matters of the kind found proved. It found that your insight was limited into the impact these proceedings have had on you, but you do not address the need for public protection.*

*In its consideration of whether you have taken steps to remediate your practice, the panel took into account your reflective statement and your submissions around you reading topics to try and address the issues raised. The panel acknowledge that*

*you made some steps to improving, however it would have liked to have had sight of documentary evidence like learning logs, courses undertaken that demonstrate your remediation.*

*The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.*

*The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.*

*For these reasons, the panel finds that your fitness to practise continues to remain impaired. ‘*

The seventh reviewing panel determined the following with regard to sanction:

*‘The panel first considered whether to take no action but concluded that this would be inappropriate in that this case has been ongoing for 16 years but did not see any new evidence that the risks associated with your practice have reduced. The panel decided that it would be neither proportionate nor in the public interest to take no further action.*

*It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where ‘the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.’ The panel considered that your misconduct and lack of competence was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.*

*The panel next considered whether imposing a varied conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.*

*The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel noted that you have been unable to comply with conditions of practice due to your current employment status and the difficulty you face in finding employment, but you are engaging with the NMC and are willing to comply with any conditions imposed.*

*The panel was of the view that a varied conditions of practice order is sufficient to protect patients and the wider public interest, as you have been subject to conditions of practice orders for a number of years. In this case, there are conditions that could be formulated which would protect patients during the period they are in force.*

*The panel were mindful that the current conditions of practice were very restrictive and were mindful that employers were not able to offer you a supernumerary position. It therefore considered that proscribing your working as a midwife and limiting you to a single substantive employer, could provide workable conditions to allow you to remediate your practice as a registered nurse.*

*The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate at this juncture and would not be a reasonable response in the circumstances of your case because you have demonstrated your desire to return to working and have indicated that you would like to train in order to return to practice.*

*Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 19 March 2023.*

*It decided to impose the following conditions which it considered are appropriate and proportionate in this case:*

*'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing.*

- 1. You must not practice as a Midwife*
- 2. You must limit your nursing practice to one substantive employer which must not be an agency*

*Whilst working as a Registered Nurse:*

- 3. You must notify the NMC within 14 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere and provide the NMC with contact details of your employer.*
- 4. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.*
- 5. a) You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.*  
  
*b) You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.*

6. *You must undertake a full-time preceptorship or an equivalent period of supported practice, under direct supervision for a period of time, no less than six months or until your employer assesses that you are competent to practise under indirect supervision.*
7. *Thereafter, you must ensure that you are supervised at all times on the same shift as, but not always directly observed by a registered nurse of band 6 or above.*
8. *You must work with your line manager, mentor or supervisor (or their nominated deputy) to formulate a Personal Development Plan specifically designed to address the deficiencies in the following areas of your practice:*
  - a) *Communication skills with patients;*
  - b) *Communication and escalation of clinical concerns to the multi-disciplinary team;*
  - c) *NMC standards of record keeping;*
  - d) *Medication administration – both practical and theoretical;*
  - e) *Infection prevention control and aseptic techniques; and*
  - f) *The use of infusion pumps.*
9. *Further, you must before any review of this order provide a written reflective piece acknowledging past failings and showing how you would use evidence based practice in addressing those areas of concern in nursing.*
10. *You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every four weeks to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.*
11. *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your Personal Development Plan at least 14 days before any NMC review hearing or meeting.*

*12. You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress towards achieving the aims set out in your personal development plan with your line manager, mentor or supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer, and at any educational establishment.*

*13. You must immediately inform any prospective employer and/or any educational establishment at which you are undertaking a course of study connected with nursing, or any such establishment to which you apply to take such a course (at the time of application) that that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (12) above, to them.'*

### **Decision and reasons on current impairment**

The panel has considered carefully whether Miss Okeke's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC guidance on impairment states: "The question that will help decide whether a professional's fitness to practise is impaired is: 'Can the nurse, midwife or nursing associate practise kindly, safely and professionally?'. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Mr Jotangia on behalf of the NMC.

Mr Jotangia provided the panel with the background to Miss Okeke's case and made reference to the charges found proven against her. He submitted that as of today, there is a lack of engagement from Miss Okeke and the panel does not have any updating information before it to demonstrate that Miss Okeke has developed her insight and/or remediated the misconduct and lack of competence found proved. In light of this, Mr Jotangia invited the panel to find that Miss Okeke's practice remains impaired.

Mr Jotangia submitted that any order ought to be made or continued to protect the public and maintain public confidence in the professions. He submitted that Miss Okeke still poses a real risk to the public and a restriction on Miss Okeke's practice is important in order to uphold proper standards of conduct as set out by the NMC.

The panel heard and accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Miss Okeke's fitness to practise remains impaired. It noted that the misconduct and lack of competence found proved related to fundamentals of midwifery and nursing practices. The panel did not have any new information before it to suggest that Miss Okeke has demonstrated any further insight into her misconduct and lack of competence. Further, there was no information before the panel to show that she had taken any other steps to strengthen her practice and remediate the concerns found proved, despite being provided with ample opportunity to do so. The panel noted the lack of any reflective piece or any testimonials. The panel further noted that Miss Okeke has not meaningfully engaged with the NMC since August 2023. In the absence of any new information before it, the panel could not exclude the possibility of similar misconduct and lack of competence being repeated in the future. The panel therefore determined that the finding of impairment was necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Miss Okeke's fitness to practise remains impaired.

### **Decision and reasons on sanction**

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Miss Okeke's practice would not be proportionate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Miss Okeke's misconduct and lack of competence was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether to further extend the current conditions of practice order. The panel is mindful that any conditions in place must be proportionate, measurable and workable.

The panel noted that Miss Okeke has not attended this review hearing and did not attend the hearing in March 2024. The panel determined there is no information before it to conclude that Miss Okeke remains willing and able to comply with any conditions imposed upon her practice. Indeed, the panel noted that Miss Okeke had been subject to conditions of practice orders for some nine years and has not hitherto been able to demonstrate compliance with it at any point. On this basis, the panel concluded that a conditions of practice order is no longer practicable in this case.

The panel determined therefore that a suspension order is the least restrictive course currently available to it which would both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of three months would provide Miss Okeke with an opportunity to engage with the NMC and provide it with information about whether she still wishes to return to nursing in the future.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 19 May 2024 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may extend the order, replace the order with another order, including a striking-off order, or it may allow the current order to lapse upon expiry.

Any future panel reviewing this case would be assisted by:

- Miss Okeke's attendance at the next review hearing and her engagement with the NMC.
- Further information in relation to her current work.
- Indication of her future plans in relation to her nursing and midwifery practice.
- Testimonials from colleagues or supervisors in a clinical or healthcare setting.
- Further information on any relevant training she has completed.
- Record of relevant reading.
- A reflective statement in relation to the misconduct and lack of competence found proved.

This will be confirmed to Miss Okeke in writing.

That concludes this determination.